HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

W.P. NO.15459 of 1996

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Between:
D.N.Govindappa and another

.....Petitioners

AND

The State of Andhra Pradesh represented by
The District Collector, Anantapur and another

.....Respondents

::ORDER::

Counsel for the Petitioners : Sri G.V.Raghava Reddy for

Sri S.V.Sundara Rajan

Counsel for Respondents : The Government Pleader

for Land Acquisition

Dated 12/7/2006

By now, it is well settled that the purchasers of the land, which is already subject matter of acquisition under the Land Acquisition Act, 1894 (for short 'the Act') do not have the locus to question the acquisition proceedings – **U.P. Avas Evam Vikas Parishad v. Pushpa Lata Awasti**[1], **State of Orissa v. Dhobei Sethi**[2], **U.P. Jal Nigam, Lucknow v. Kalra Properties (P) Ltd., Lucknow**[3], **Ajay Krishan Shinghal v. Union of India**[4], **Star Wire (India) Ltd. v. State of Haryana**[5], and **Ahuja Industris Limited v. State of Karnataka**[6].

I have made a mention of the above stated settled legal position because the only question which arises for determination in this petition is whether notification issued by District Collector, Ananthapur under Section 4(1) of the Act for acquisition of various parcels of land including 85 cents of land comprised in Survey No.123/7 of Gollapuram Village, Hindupur Mandal is liable to be nullified at the instance of the petitioners.

In paragraph 2 of the affidavit filed by petitioner No.1, D.N.Govindappa, it has been averred that he and petitioner No.2 N.Devaraj are owners of land measuring 85 cents comprised in Survey No.123/7. According to the deponent, the land had been purchased by them in 1995 from the original owners viz., Krishnajirao and Janardhanarao, sons of Narayanarao, for valid consideration under a duly registered sale deed. They have questioned the notification issued under Section 4(1) of the act on the ground that the same was not published as per the mandate of that section and, on that account, they were deprived of the right to represent against the proposed acquisition.

In the counter filed by Sri G.S.R.K.R.Vijay Kumar, the then Revenue Divisional Officer, Penukonda, Ananthapur District, it has been averred that Ac.4.75 cents of land of Gollapuram Village of Hindupur Mandal was

acquired for providing house sites to the weaker sections of the society. For this purpose, Collector, Ananthapur issued notification under Section 4(1), which was published in district gazettee dated 17.3.1994. The notification was also published in the locality on 26.3.1994 and two news papers viz., Eedadu and Andhra Jyothi dated 25.3.1994 and 27.3.1994 respectively. Thereafter, enquiry was held under Section 5-A of the Act. The land owners of Survey No.123/7 did not participate in the enquiry, despite notice. At the conclusion of the enquiry, declaration under Section 6 was published in district gazette dated 8.5.1994, in the locality of the land on 9.6.1994 and two news papers i.e., Eenadu and Andhra Jyothi dated 2.6.1994 and 4.6.1994. As a sequel to the issuance of notification under Section 4(1) and declaration under Section 6 of the Act, notices were issued under Section 9(1) of the Act and, thereafter, award was passed by the Land Acquisition Officer.

It is borne out from the record that copy of the counter affidavit was supplied to the petitioners some time in the month of March, 1997 but they have not filed rejoinder affidavit.

I have heard learned counsel for the parties. In my opinion, the writ petition is liable to be dismissed for more than one reason. Firstly, the petitioners have not placed before the Court any tangible evidence in support of their assertion regarding purchase of the land in the year 1995. They have not disclosed the date of purchase and the date on which the document is said to have been registered. Copy of the sale deed through which the disputed land was purchased also has not been placed on the record of the writ petition. Secondly, even if the petitioners assertion about purchase of the land in question is taken as correct, they cannot be heard to complain against notification issued under Section 4(1) or declaration under Section 6 of the Act because, as per their own showing, the land was purchased after more than

6 months of the publication of declaration under Section 6 of the Act. Thirdly, that the petitioners assertion that notification had not been

published as per the mandate of Section 4 (1) is falsified by the categorical averments contained in paragraphs 3, 4 and 5 of the affidavit of the Revenue Divisional Officer, which, as mentioned above, have remained uncontroverted due to non- filing of rejoinder by the petitioners.

In the premise aforesaid, I hold that the writ petition is wholly mis-conceived and is liable to be dismissed. Ordered accordingly. The petitioners shall pay costs of Rs.10,000/- for having filed frivolous litigation and succeeded in persuading the Court to pass an interim order which resulted in frustration of the scheme evolved by the Government and its functionaries for providing house sites to the weaker sections of the society.

At this stage, learned counsel for the petitioners made a request that the Court may relieve the petitioners of the burden of costs because they are poor agriculturalists of a drought prone area of the State. This has not been disputed by the learned Government Pleader.

In view of the above, I accept the request of the learned counsel and relieve the petitioners of the burden to pay costs of Rs.10,000/-.

G.S.SINGHVI, CJ

12/07/06

svs

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[1] (1995) 3 SCC 573

[2] (1995) 5 SCC 583

[3] (1996) 3 SCC 124

[4] (1996) 10 SCC 721

[5] (1996) 11 SCC 698

[6] (2003) 5 SCC 365